

HOUSE BILL 1370

By Kernell

AN ACT to amend Tennessee Code Annotated, Title 63  
and Title 71, relative to long-term care.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known, and may be cited as the "Community Choices Act of 2007".

SECTION 2. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following amendatory section:

71-5-150.

(a) The comptroller of the treasury shall quantify the amount appropriated to an individual with an approved pre-admission evaluation (PAE) for TennCare/Medicaid long term care services for either intermediate care facility for the mentally retarded (ICF/MR) services or for level 1 or level 2 nursing facility and the amount equal to that amount shall be used for the services needed for that individual to live in the community.

(b) Any recipient with an approved PAE for TennCare/Medicaid coverage for either intermediate care facility for the mentally retarded (ICF/MR) services or for level 1 or level 2 nursing facility services shall be given the choice to transition out of the institutional placement by having the money follow the person out of the appropriate institutional budget and be placed in the home and community-based services (HCBS) budget for that individual to receive HCBS.

(c) The individual shall have service delivery options that shall include but are not limited to, vouchers, agencies with choice, fiscal intermediaries, direct cash and other service delivery systems that may be developed by the state.

SECTION 3. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is further amended by adding the following amendatory section:

71-5-151.

(a) The bureau of TennCare shall seek a modification of the current statewide waivers or implement a new statewide waiver from the federal department of health and human services that includes a continuum of service delivery models but shall also allow fiscal intermediary and cash and counseling models to be used by the consumer.

SECTION 4. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is further amended by adding the following amendatory section:

71-5-152.

(a) A relocation system shall be funded by TennCare to provide targeted case management for a minimum of two hundred (200) individuals over the next five (5) years and facilitate grants, state contracts or fee for services to pay local community based organizations (CBOs), to identify individuals in ICF/MR facilities and nursing homes that want to move into the community and to provide institution to community transition services which includes but is not limited to, the coordination of the service and support package the individual needs to be moved out of the institution.

(b) To assist with identification the state shall provide upon request to each CBO the complete CMS Q1-A data for their service area.

(c) Each individual receiving institution to community relocation services will be granted a transition cost allowance of two thousand dollars (\$2,000) for items such as but not limited to first month rent, deposits, kitchen appliances, furniture and household items. The transition cost allowance will be locally administered by the CBO providing the nursing home transition services.

(d) The bureau of TennCare may seek waiver amendments, grants or other means to fund this project.

(e) Quality assurances will be done by the community based organization measured by consumer evaluations of the service provider. At the end of each year a

cost benefit analysis shall be conducted on going for each recipient for moneys spent for relocation services and HCBS services versus the cost for their nursing facility.

SECTION 5. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is further amended by adding the following amendatory section:

71-5-153. A Tennessee commission on aging and disability (TCAD) disability services consumer advisory board shall be organized and funded by the bureau of TennCare. This consumer advisory board shall be selected by the governor. Advisory board members shall be made up of at least a majority of people with disabilities. Members shall include three (3) recipients of waivers with one (1) from each of the three (3) grand divisions; one (1) representative from each of the five (5) centers for independent living; one (1) representative from ADAPT of Tennessee; one (1) representative from AARP; one (1) representative from the Tennessee Disability Coalition; one (1) representative from ARC of Tennessee; two (2) at-large positions and two (2) positions designated by the executive director of TCAD. Meetings will be held quarterly with travel, room, board, attendant services paid for by the state to bring board members together. This board will advise the executive director of TCAD on disability-related issues as it relates to the services from TCAD for people with disabilities. At the first board meeting of each year the executive director of TCAD in consultation with the advisory board will provide a written report to the governor, the general assembly and the bureau of TennCare on the state services to persons with disabilities by TCAD and implementation of the states compliance with the Olmstead decision. This report will include but is not limited to recommendations from the advisory board.

SECTION 6. Tennessee Code Annotated, Section 63-7-102, is amended by adding the following amendatory language as a new subdivision:

(12) Under the state plan **or under** statewide waiver systems, health maintenance activities may be delegated by a licensed nurse to be performed by an

unlicensed person when, within the reasonable exercise of independent nursing judgment, that procedure may be performed by the unlicensed person with reasonable skill and safety under the supervision of a registered professional nurse or a licensed practical nurse. Health maintenance activities include, but are not limited to, administration of medications by oral, rectal, vaginal, optic, ophthalmic, nasal, skin, topical, transdermal and gastrostomy tube routes, feedings through a tube, surface care of stoma sites, irrigation of catheter, bowel maintenance and wound care if such activities in the opinion of the attending physician or licensed professional nurse may be performed by the individual if the individual were physically capable, and the procedure may be safely performed in the home or community setting.

SECTION 7. This act shall take effect July 1, 2007, the public welfare requiring it.